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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/811,421	03/20/2001	David Weiss	2420-0034	9918

22204 7590 04/15/2003

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8180 GREENSBORO DRIVE  
SUITE 800  
MCLEAN, VA 22102

EXAMINER

MEREK, JOSEPH C

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 04/15/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/811,421

Applicant(s)

WEISS ET AL.

Examiner

Joseph C. Merek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15,16,18-20,22-26,28-32 and 34 is/are rejected.
- 7) ☒ Claim(s) 17,21,27 and 33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/11/03 has been entered.

### ***Claim Objections***

Claim 31 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 29 states that the cut outs are in at least the transition wall. Claim 31 states that the cut outs are in the transition wall. This does not further limit the previous claim.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15, 16, 18-20, 22-26, 28-32, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Holdt (US 5,538,154) in view of Bingisser (US 5,103,993). Regarding claim 15, Von Holdt teaches all the limitations but does not teach the access opening formed in the closure surface. Bingisser, as seen in Fig. 4 and Col. 3 lines 19 and 21, teaches a similar container structure with an access port 16 in the closure surface. It would have been obvious to employ the access opening of Bingisser in the container of Von Holdt to provide access to the container without removing the lid or to provide a pouring opening. See Fig. 10-12, where the closure surface extends from a lowermost portion of the inner wall. The portion of the inner wall to which the closure surface is attached is the lowermost portion. The closure surface does not have to extend from the lowest point on the inner wall to meet this limitation. As seen in Fig. 10, the openings 76 are in the transition wall. The openings extend around the periphery of the container lid as seen in Fig. 9 and there is at least one cut out in each quadrant of the rim. The outer wall is 14c and the inner wall is the wall to which the closure surface 12c is attached. The seal is formed along the inner wall between the openings 76 and the closure surface 12c. Regarding claims 16, 20, 24, and 30, see Fig. 9, where the cut outs are mutually spaced about the circumferential rim. Regarding claims 18, 22, 28, and 34, since the cut outs are spaced about the rim as seen in Fig. 9, there will be at least two diametrically opposed pairs of cut outs. Regarding claim 19, since there is at least one cut out in each quadrant the spacing limitation is met. Moreover, the diametrically opposed pairs will be spaced from each other by more than one quadrant. See the discussion of claim 15 regarding the

lowermost portion limitation. Regarding claim 23, there is a cut out formed in each of the quadrant of the rim. Regarding claim 25, see Fig. 10 where the cut outs are formed in the transition wall. Regarding claims 26 and 32, see Figs. 12-14 where the cut outs can be formed in the outer wall of the rim. A portion of the brim will be visible through the opening as seen in Fig. 13. Regarding claims 29 and 31, the cut outs are formed in the transition wall as seen in Fig. 10. See the discussion of claim 19 regarding the cut outs being spaced from each other by at least a quadrant or greater.

#### ***Allowable Subject Matter***

Claims 17, 21, 27, and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dwinell et al and Matthews are both cited for teaching container lids with access openings in the lid.

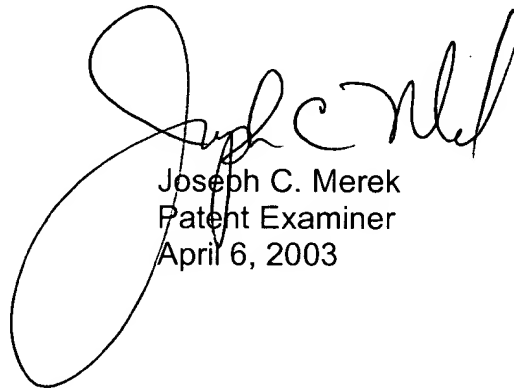
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone numbers for

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the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Joseph C. Merek  
Patent Examiner  
April 6, 2003